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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,376	12/27/2001	Frans Eduard Janssens	JANS-0028	6402

7590

02/17/2005

Woodcock Washburn  
46th Floor  
One Liberty Place  
Philadelphia, PA 19103

EXAMINER
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COLEMAN, BRENDA LIBBY

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/019,376

Applicant(s)

JANSSENS ET AL.

Examiner

Brenda L. Coleman

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-13 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7-13 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Claims 1, 3-13 and 16-19 are pending in the application.

This action is in response to applicants' amendment dated December 10, 2004.

Claims 1, 5, 6 and 13 were amended.

### *Response to Arguments*

Applicant's arguments filed December 10, 2004 have been fully considered with the following effect:

1. The applicants amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, first paragraph rejection labeled paragraph 1) maintained in the last office action, which is hereby **withdrawn**.
2. With regards to the 35 U.S.C. § 112, second paragraph rejection labeled paragraph 2d), the applicant's amendments and remarks have been fully considered but they are not persuasive.
  - d) The applicant's stated that C<sub>2-5</sub>alkanediyl is defined as an optional substituent on the C<sub>1-10</sub>alkyl substituted with N(R<sup>6</sup>)<sub>2</sub> and that this implies that the divalent C<sub>2-5</sub>alkanediyl is linked at both ends to the C<sub>1-10</sub>alkyl chain. The applicants point to several examples in Table 12 which believe exemplify the C<sub>2-5</sub>alkanediyl on the C<sub>1-10</sub>alkyl chain. However, the definition of R<sup>2</sup> in examples 157, 168 and 175 is such that R<sup>2</sup> is -C(=O)-O-C(CH<sub>3</sub>)<sub>3</sub> or -C(=O)-CH<sub>3</sub>, neither of which are embraced by the compounds of the instant invention as defined in claim 1. The compounds of the instant invention are such that Q is bonded to the

two position of the benzimidazole where Q is (b-1), (b-2), (b-3), (b-4), (b-5), (b-6), (b-7) and (b-8).

Claims 1, 3, 5, 7-13 and 16-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for reasons of record and stated above.

3. The applicants amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, first paragraph rejection labeled paragraph 4) of the last office action, which is hereby **withdrawn**.

4. The applicants amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, second paragraph rejections labeled paragraph 5) of the last office action, which are hereby **withdrawn**.

5. The applicants arguments are sufficient to overcome the obviousness-type double patenting rejection labeled paragraph 6) of the last office action, which is hereby **withdrawn**.

### ***Claim Objections***

6. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Allowable Subject Matter***

7. Claim 6 is allowed. None of the prior art of record or search in the pertinent art area teaches the compounds of the instant invention as claimed herein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda L. Coleman whose telephone number is 571-272-0665. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Brenda L. Coleman  
Primary Examiner Art Unit 1624  
February 16, 2005